AUTOMOBILES—STATUTE GIVING VEHICLE APPROACHING FROM THE RIGHT THE RIGHT OF WAY—VIOLATION OF STATUTE AS CONTRIBUTORY NEGLIGENCE PER SE.—A Minnesota statute provides that the driver of any vehicle approaching an intersection shall give the right of way to any other vehicle approaching from his right. In an action to recover for damage to his car resulting from a collision with the defendant's car at an intersection, the plaintiff's own testimony demonstrated that the defendant's car was approaching from the plaintiff's right. *Held,* that the plaintiff's proceeding in violation of the statute was contributory negligence as a matter of law. *Lindahl* v. *Morse,* (Minn., 1921), 181 N. W. 323.

The decision merely follows the general rule that violation of a statute is negligence *per se*. *Travers* v. *Hartman,* 28 Del. 302, (riding a bicycle down the left side of the street); *Donovan* v. *Lambert,* 139 Ill. App. 532, (driving a buggy down the wrong side of the street). However, the violation of the statute must be the proximate cause of the injury. *Coffin* v. *Laskaw,* 89 Conn. 325; *Reynolds* v. *Pacific Car Company,* 75 Wash. 1. A distinction is sometimes drawn between violations of statutes and violations of city ordinances, the latter violations being merely prima facie evidence of negligence. *Scott* v. *Dow,* 162 Mich. 636.

BOUNTIES—DRAFTED MAN INDUCTED INTO MILITARY SERVICE BUT REJECTED AT CANTONMENT NOT ENTITLED TO BONUS.—The Public Laws of Rhode Island, Chapter 1832, Section 2, provided that a bonus be granted "To each * * * enlisted man * * * who was mustered into the federal service and reported for active duty on or after April 6, 1917, and prior to November 11, 1918." Plaintiff was inducted into service during this period but was promptly rejected upon reaching camp because of bad teeth. Upon petition for a writ of certiorari praying that the record of the decision of the Soldiers' Bonus Board disallowing the plaintiff's application for a bonus be quashed, it was *held,* that plaintiff was never mustered into the service within the meaning of the statute and therefore the plaintiff was not entitled to a bonus. *Bannister* v. *Soldiers' Bonus Board,* (R. I., 1921), 112 Atl. 422.

As pointed out in *Tyler* v. *Pomeroy,* 90 Mass. 480, "as late as the reign of Charles II, the greatest lawyers in England overlooked the distinction between martial and military law,—between the military rule, not limited to the army, which prevails in time of war, when the civil laws have lost their force, and the military discipline, necessary to the government of an army at all times." It is true, as plaintiff contended, that if he had refused to obey the order to report at camp after he had been inducted into service by the local draft board he would have been liable to punishment as a deserter—not because he had been "mustered into service," however, but because he was subject to military law and regulations as provided in Section 2 of the Selective Service law. The fact that plaintiff had received a $60 bonus under the National Soldiers' Bonus Act is not controlling, for the provisions of that act are different from the provisions of the statute construed in the instant case. The federal bonus act contains no provision that the applicant must have been "mustered into the federal service." The interpretation put upon

the word "muster" by the court in the instant case, which no doubt seems at first blush to be extremely technical, is nevertheless sustained by a great number of adjudged cases both in this country and in England. *Methuen* v. *Martin*, Sayer, 107; *Grant* v. *Gould*, 2 H. Bl. 103; *Wolton* v. *Gavin*, 16 Q. B. 48; *Bamfield* v. *Abbot*, 9 Law Rep. 510; *Houston* v. *Moore*, 5 Wheat. (U. S.) 20. Certainly such an interpretation carries out the probable intent of the legislature in passing the Act. Moreover, it scarcely can be contended that the result reached by the court was not an equitable one.

CARRIERS—CONTRIBUTORY NEGLIGENCE OF PASSENGER IN FAILING TO WARN TAXI DRIVER OF IMPENDING DANGER.—While the plaintiff was riding in one of the defendants cabs the driver negligently came into collision with another car. According to the testimony of the plaintiff she saw the other car approaching on an intersecting street when both cars were one hundred feet from the intersection but failed to warn the driver of the taxicab. The trial court refused to give a charge on contributory negligence. *Held*, that there was no evidence sufficient to support a charge of contributory negligence. A taxicab company is a common carrier of passengers, and "a passenger has the right to rely upon the presumption that the carrier is familiar with the dangers to be apprehended and will use all necessary skill and vigilance to avoid them." *McKeller* v. *Yellow Cab Co., Inc.*, (Minn., 1921), 181 N. W. 348.

A taxicab company is generally held to be a common carrier, the reason being that it holds itself out to serve all who apply for transportation at a fixed charge. *Carlton* v. *Boudar*, 118 Va. 521; *Van Hoeffen* v. *Columbia Taxicab Co.*, 179 Mo. App. 591. Hence, they are bound to do all that human care and foresight can reasonably do, consistent with the character and mode of conveyance adopted, to prevent accidents and injuries to passengers carried by them. *Boland* v. *Gay*, 201 Ill. App. 351. Even though a negligent act on the part of the passenger which proximately contributes to the injury may preclude his recovery from the carrier, it is generally held that mere failure to act even in the face of imminent danger will not. *Grand Rapids & Indiana R. Co.* v. *Ellison*, 117 Ind. 234. Thus, where a passenger on a railroad saw a train approaching on an intersecting road, his failure to warn the engineer by pulling the bell cord was held not to preclude his recovery. *Grand Rapids & Indiana R. Co.* v. *Ellison*, *supra*. And a passenger on a bus is not guilty of contributory negligence in failing to warn the driver of excessive speed. *Harmon* v. *Barber*, 247 Fed. 1. And a passenger on a train is not bound to notify the conductor of the presence of an iron frame which is likely to fall and injure him. *Diffenderfer* v. *Penn. R. Co.*, 67 Penn. Super. Ct. Rep. 187. The law correctly draws a distinction between the duty of the passenger in a taxicab and the duty of a guest in an automobile to warn the driver of impending perils. As to the duty of the guest, see *Howe* v. *Corey*, (Wis., 1920), 179 N. W. 791, 19 MICH. L. REV. 433.

CARRIERS—DEGREE OF CARE NECESSARY IN KEEPING AISLES FREE.—Plaintiff had been a passenger in a Pullman chair car and sued for an injury received from stumbling over a footstool in the aisle. He was not allowed to recover